

## REMARKS

### The invention

In general, the invention features polypeptides, which are overexpressed in neoplastic cells. These polypeptides are useful, for example, to identify neoplastic cells in specimens.

### The Office Action

Claims 1-36 are pending. Claims 1-20, and 27-36 are withdrawn from consideration as being drawn to a non-elected invention and by this amendment, are now cancelled. Claims 21-26 are rejected under 35 U.S.C. § 112, first and second paragraphs.

As an initial matter, applicants point out that claims 21-26, which were examined by the Office, have now been cancelled and are now presented as new claims 37-47. Applicants note that any rejection of claims 21-26 will be addressed hereon in as applied to new claims 37-47.

Applicants further note that, as required by the Examiner, the specification has been amended to capitalize each letter of all trademarks. No new matter has been added by these amendments. As pointed out by the Examiner, the word "QIAGEN" at page 8, line 2, has been amended to correct the spelling error.

Applicants further note that the Examiner has stated that the abstract should be provided on a separate sheet. Applicants have amended the specification such that the abstract now complies with 37 C.F.R. 1.72(b).

### Support for Amendments

New claims 37-47 are currently directed to methods for detecting a neoplastic cell in a specimen by determining the amount of the polypeptides containing the amino acid sequence of SEQ ID NO: 10.

Support for new claim 37, which has been redrafted to clarify cancelled claim 21, is found at page 7, line 26 through page 11, line 2. New claims 41, 42, 45, 46, and 47 correspond to cancelled claims 22, 23, 24, 25, and 26, respectively. Support for new claims 38-40, which require the increase in the polypeptide to be approximately 3 fold, between 3-8 fold, or between 1.5 to 2.9 fold respectively, is found at page 10, lines 26 through page 11, line 2. Support for new claims 43 is found at page 9, line 15 and support for new claim 44 is found, for example, at page 9, line 16, page 9, lines 29-30, and page 10, lines 3-5. No new matter has been added by any of these amendments.

### Improper Restriction Requirement

As an initial matter, applicants submit that the Office communication mailed on July 15, 2002 contained an improper restriction requirement. Applicants direct the Examiner's attention to original claim 21, which states:

21. A method of detecting a neoplastic cell, comprising:  
correlating a predetermined quantity of an intracellular polypeptide comprising at least one of SEQ ID NO:8, SEQ ID NO:9, SEQ ID NO:10, SEQ ID NO:11, SEQ ID NO:12, SEQ ID NO:13, and SEQ ID NO:14 in a cell containing system with a presence of a neoplastic cell; and  
detecting at least the predetermined quantity of the intracellular polypeptide in the system.

Based on telephone conference calls with Examiners Stephen L. Rawlings and Anthony C. Caputa, it is applicants' understanding that the Office has issued a restriction requirement based on the misleading language of original claim 21. In this regard, due to the confusing language of original claim 21, the Office has interpreted the claim as being directed to a diagnostic method which involves the determination of the quantity of a polypeptide containing SEQ ID NO:10, SEQ ID NO:11, *and* SEQ ID NO:14 rather than a polypeptide containing SEQ ID NO:10, SEQ ID NO:11, *or* SEQ ID NO:14. As a result of this confusion, applicants have misinterpreted the restriction requirement of July 15, 2002 and have mistakenly assumed invention group XVIII to be directed to polypeptides containing SEQ ID NO:10, SEQ ID NO:11, *or* SEQ ID NO:14. Applicants have therefore inadvertently elected an invention group that, as asserted by the Examiner in the present Office action, relates to polypeptides that are not taught anywhere in the specification. Applicants have now amended the claims to clarify the language and to contain a single species, namely polypeptides of SEQ ID NO: 10. Applicants apologize for any inconvenience this confusion may have caused the Office and respectfully request re-examination of new claims 37-47.

CONCLUSION

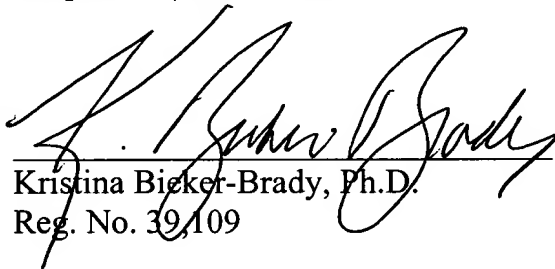
Applicants submit that the claims are now in condition for allowance and such action is respectfully requested.

Enclosed is a Petition to extend the period for replying to the Office action for three months, to and including July 14, 2003, and a check in payment of the required extension fee.

If there are any additional charges or any credits, please apply them to Deposit Account No. 03-2095.

Respectfully submitted,

Date:

July 10, 2003   
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